

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE  
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

ADWOWA JACOBS,	)	
	)	
Plaintiff	)	
	)	
v.	)	CIVIL ACTION NO.
	)	2:05cv925-MHT
ELECTRONIC DATA SYSTEMS	)	(WO)
CORPORATION and JEFF	)	
WILLIAMS,	)	
	)	
Defendants.	)	

OPINION AND ORDER

On September 15, 2006 (Doc. No. 29), the court declined to dismiss this lawsuit despite the plaintiff's noncompliance with the magistrate judge's orders compelling discovery and assessing fees. Instead, the court ordered the plaintiff's attorney to comply immediately with those orders and to pay the defendants' reasonable fees and expenses incurred in connection with its motion to dismiss (Doc. No. 21). The defendants have since filed notice (Doc. No. 32) stating that such

reasonable fees and expenses amount to \$ 2,413.80, and the plaintiff objects (Doc. No. 37).

While by no means condoning the dilatory conduct of the plaintiff's attorney, the court concludes that a \$ 2,413.80 sanction would be both excessive and punitive in this particular case. The defendants' affidavit states that their calculation of attorney's fees is based on 13 hours of preparation, filing, and arguing the motion at a rate of \$ 185.00 per hour for preparation and filing and \$ 345.00 per hour for argument. The court finds excessive both the amount of time billed and the billing rates. Additionally, it appears that the plaintiff's attorney has proceeded in good faith since the court issued its September 15 order, having finally paid \$ 918.00 to the defendants as previously ordered by the magistrate judge. Additional sanctions in excess of \$ 2,400 would be unduly punitive at this time.

In light of the foregoing, it is ORDERED that:

(1) Defendants shall have and recover from plaintiff's counsel, L.D. Walker, III, personally, fees and expenses in the amount of \$ 1,000.00, with the check in defense counsel's hands by October 20, 2006.

(2) Defendants shall immediately file notice with the court when they receive said payment, or, should they not receive the payment on time, notify the court of that as well.

Counsel for plaintiff is informed that this court will not tolerate any further dereliction in this case.

DONE, this the 5th day of October, 2006.

/s/ Myron H. Thompson  
UNITED STATES DISTRICT JUDGE